



ARKANSAS JUDICIARY

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Rule 47. Jurors.

(a) Examination of Jurors. The Court shall either permit the parties or their attorneys to conduct the examination of prospective jurors or itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by such further inquiry as it deems proper.

(b) Alternate Jurors. The court may direct that not more than two jurors in addition to the regular jury be called and impanelled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the qualifications, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impanelled. The additional peremptory challenge may be used against an alternate juror only and the other peremptory challenges allowed by law shall not be used against an alternate juror.

Reporter's Notes to Rule 47: - 1. Section of this rule is identical to FRCP 47(a) and confers upon the trial court broad discretion in the examination of prospective jurors. *Labbee v. Roadway Express, Inc.*, 469 F. 2d 169 (C.C.A. 8th, 1972), *Kiernan v. Van Schaik*, 347 F. 2d 775 (C.C.A. 3rd, 1965). Prior Arkansas law was governed by superseded Ark. Stat. Ann. 39-226 (Repl. 1962), which likewise left the mode and manner of voir dire to the discretion of the trial court. This discretion did not, however, vest the trial court with arbitrary authority to prohibit voir dire by counsel. *Missouri Pacific Transp. Co. v. Johnson*, 197 Ark. 1129, 126 S.W.2d 931 (1939). In drafting this rule, the Committee intended to vest the trial court with sufficient authority to limit voir dire to a reasonable inquiry, but not to prohibit reasonable voir dire by counsel.

2. Section (b) is substantially the same as FRCP 47(b) as it existed prior to the 1966 amendments. Prior thereto, the Federal Rule limited alternate jurors to one or two in number, whereas the present Federal Rule permits the court to seat as many as six alternates. The Committee doubted the need for more than two alternates in civil cases in this State and in most court facilities there is insufficient room to seat a large number of alternate jurors. Accordingly, the Committee determined that alternate jurors should be limited to two in number.

3. Prior Arkansas law was governed by superseded Ark. Stat. Ann. 39-232 (Repl. 1962), which provided that not more than three alternate jurors could be called and impanelled. This rule continues the provisions of superseded Ark. Stat. Ann. 39-234 (Repl. 1962) wherein it provided that one additional peremptory challenge was allowed when alternate jurors were

used, but that such additional challenge could be used only against an alternate juror. Thus the only change in Arkansas law effected by Section (b) is the reduction from three to two in the number of alternate jurors which may be used.

Associated Court Rules:

Rules of Civil Procedure

Group Title:

VI. Trials

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